

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

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PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference see form PCT/ISA/220		FOR FURTHER ACTION See paragraph 2 below
International application No. PCT/IB2005/000985	International filing date (day/month/year) 24.03.2005	Priority date (day/month/year) 29.03.2004
International Patent Classification (IPC) or both national classification and IPC B60R21/13		
Applicant NYGAARD, Jens Halstein Seeborg		

1. This opinion contains indications relating to the following items:

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer Burley, J Telephone No. +31 70 340-1046	
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Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 a sequence listing
 table(s) related to the sequence listing
 - b. format of material:
 in written format
 in computer readable form
 - c. time of filing/furnishing:
 contained in the international application as filed.
 filed together with the international application in computer readable form.
 furnished subsequently to this Authority for the purposes of search.
3. In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

Re Item III

Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. No opinion can be established on the subject-matter of claims 9-15, 17 and 18 since these claims appear to correspond to second and third inventions (see Item IV) and, as additional search fees have not (yet) been received, corresponding search reports have not been established.

Re Item IV

Lack of unity of invention

2. This Authority considers that there are three inventions covered by the claims indicated as follows:
 - I: Claims 1-8, 16 and 19-21 directed towards a vehicle comprising a fixed strengthening member.
 - II: Claims 9-15 and 17 directed towards a vehicle comprising a strengthening member which is movable from a stored position to an operating position as well as means to move the strengthening member.
 - III: Claim 18 directed towards a strengthening member characterised by its construction.
3. The reasons for which the inventions are not so linked as to form a single general inventive concept, as required by Rule 13.1 PCT, are as follows:

The prior art has been identified as document D1 (GB 961122 A) and discloses all the features of independent claims 1 and 16 (see Item V).

The first technical feature that makes a contribution over the prior art and which can therefore be considered as a special technical feature within the meaning of Rule 13.2 PCT is to be found in claim 2. This feature is that the strengthening member is mounted within the passenger-carrying compartment of the road vehicle.

The problem solved by these special technical features can therefore be construed as undesirable wind-noise whilst driving the vehicle disclosed in D1.

Independent claims 9, 17 and 18 also contain special technical features which make a contribution over the prior art document D1, however these features relate to a movable strengthening member (in the case of claims 9 and 17) and constructional details of a strengthening member (claim 18) and as such solve problems relating to passenger space and the structural properties of a strengthening member respectively.

Moreover, examining the possible correspondence by technical effect, one finds that the technical effect of the first invention is the elimination of undesirable wind-noise, whereas the technical effect of the second invention is a concealment of the strengthening member in normal driving conditions and the technical effect of the third invention is a strengthening member with particular physical characteristics,

This appears to show lack of corresponding technical effect between the subject-matter of dependent claim 2, the subject-matter of independent claims 9 and 17 and the subject-matter of independent claim 18. Consequently, neither the objective problem underlying the subjects of the claimed inventions, nor their solutions defined by the special technical features allow for a relationship to be established between the said inventions, which involves a single general inventive concept.

In conclusion, the groups of claims are not linked by common or corresponding special technical features and define three different inventions not linked by a single general inventive concept. Hence the application does not meet the requirements of unity of invention as defined in Rules 13.1 and 13.2 PCT.

Re Item V

**Reasoned statement with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

Reference is made to the following documents:

- D1: GB 961 122 A (DAIMLER-BENZ AKTIENGESELLSCHAFT) 17 June 1964 (1964-06-17)
D2: GB 961 121 A (DAIMLER-BENZ AKTIENGESELLSCHAFT) 17 June 1964 (1964-06-17)
D3: WO 01/03977 A (LUDICK, MATTHEUS, ADRIAAN, ALBERTUS; LUDICK, JACOB, COETZER) 18 January 2001 (2001-01-18)
D4: DE 100 46 764 A1 (DR.ING.H.C. F. PORSCHE AG) 11 April 2002 (2002-04-11)
D5: FR 603 466 A (DURIO, MARIO) 16 April 1926 (1926-04-16)
D6: DE 199 32 114 C1 (AUDI AG) 17 August 2000 (2000-08-17)
D7: FR 935 239 A (BRACHET, MARCEL) 14 June 1948 (1948-06-14)

Novelty and inventive step

4. The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1-8 and 16 is not new and/or inventive in the sense of Article 33(2) and (3) PCT.
- 4.1 The document D1 discloses (the references in parentheses applying to this document):
a road vehicle comprising at least one strengthening member (4) fixed to a structure (11) of the vehicle and extending in front of the driver's position (see figure 2), wherein the strengthening member (4) is dimensioned so that it will not prevent the driver seeing an object which is at least two metres from the front windscreens, when the driver uses binocular vision and without requiring the driver to move his head (page 2, lines 71-74).
The features of independent claim 1 are also known from the documents D2 - D7 (see the relevant passages cited in the search report). Independent claim 1 is therefore not new.
- 4.2 The same reasoning applies, mutatis mutandis, to the subject-matter of the corresponding independent claim 16 which is therefore also considered not new.
- 4.3 Dependent claims 2-8 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect

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AUTHORITY (SEPARATE SHEET)

International application No.
PCT/IB2005/000985

of novelty and/or inventive step, see documents D1 - D7 and the corresponding passages cited in the search report.

Industrial applicability

5. The subject-matter of claims 1-8, 16 and 19-21 of the present application is susceptible of industrial application in occupant protection systems for the automotive industry.

Re Item VII

Certain defects in the international application

6. Independent claims 19 - 21 are respectively directed toward a road vehicle, a strengthening member and a strengthening structure based solely on reference to the description and the drawings. According to Rule 6.2(a) PCT, claims should not contain such references except where absolutely necessary, which is not the case here.